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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 23rd May, 2018**

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\+ MAC.APP. 596/2017 and C.M. Appl. 24806/2017

IFFCO TOKIO GENERAL INSURANCE CO LTD ..... Appellant
Through: Mr. Pankaj Gupta proxy for Ms. Suman Bagga, Advocate

versus

NARESH KUMAR & ORS ..... Respondents
Through: Mr. R.K. Bachchan, Advocate for respondents No.1 and 2

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\+ MAC.APP. 125/2018

NARESH KUMAR AND ANR ..... Appellants
Through: Mr. R.K. Bachchan, Advocate

versus

IFFCO TOKIO GENERAL INSURANCE CO LTD AND ORS ..... Respondents
Through: Mr. Pankaj Gupta proxy for Ms. Suman Bagga, Advocate for respondent No.1

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The parties have challenged the award of the Claims Tribunal whereby compensation of Rs.11,59,000/- has been awarded to the legal representatives of Kunal. The accident dated 25th February, 2015 resulted in

the death of Kunal. The deceased was aged 18 years at the time of the accident and was working on commission basis in fruit market at Azadpur. The deceased was survived by his parents, who filed the application for compensation before the Claims Tribunal.

2. The Claims Tribunal took Rs.9,048/- as minimum wages, deducted 1/3rd towards his personal expenses and applied the multiplier of 14 to compute the loss of dependency as Rs.10,13,376/-. The Claims Tribunal awarded Rs.1 lakh towards loss of love and affection, Rs.20,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. The total compensation awarded is Rs.11,59,000/-.

3. Learned counsel for the appellant in MAC. APP. 596/2017 urged at the time of hearing that minimum wages of Rs.8,632/- be taken into consideration and the personal expenses of the deceased be taken as one half. It is further submitted that non-pecuniary compensation be reduced in terms of the principles laid down in ***National Insurance Co. Limited vs. Pranay Sethi and Ors.*** 2017 SCC Online SC 1270.

4. Learned counsel for the claimants submits that 40% be added towards future prospects and multiplier of 18 be applied according to the age of the deceased.

5. There is merit in the contentions urged by learned counsels for both the parties. The minimum wages as on the date of the accident were Rs.8,632/- which are taken into consideration for computing the compensation, 40% is added towards future prospects, 50% is deducted towards personal expenses and multiplier of 18 is applied according to the age of the deceased. The compensation of Rs.1 lakh towards loss of love and affection is set aside. The compensation for loss of estate and funeral

expenses is reduced to Rs.15,000/- each.

6. Taking the income of the deceased as Rs.8,632/- per month, adding 40% towards future prospects, deducting 50% towards personal expenses and applying the multiplier of 18, the loss of dependency is computed as Rs.13,05,158.4. Adding Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, the total compensation is computed as Rs.13,35,158.4 rounded off to Rs.13,35,200/-.

7. Both the appeals are partially allowed and the compensation amount is enhanced from Rs.11,59,000/- to Rs.13,35,200/-.

8. The appellant in MAC. APP. 596/2017 has deposited the award amount before the Claims Tribunal out of which 40% amount has been released to claimants and the balance amount is lying with the Claims Tribunal. The Claims Tribunal is directed to send the balance amount to the Registrar General of this Court and the disbursement order of the same shall be passed by this Court along with the enhanced amount.

9. The enhanced compensation along with upto date interest be deposited by the appellant with the Registrar General of this Court within six weeks.

10. Pending application is disposed of.

11. List for disbursement of the compensation amount on 26th July, 2018.

12. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

MAY 23, 2018 **J.R.MIDHA, J.**

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